

Rockport Board of Appeals
December 10, 2013
7:30 P.M.
Rockport Public Library
The Brenner Room
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Peter Bergholtz (Chairing {left at 9:38}), Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen, Joyce Fossa and Charles W. Christopher (left at 9:38). Michael Bace absent.
- 2) Hearing of Henry J. and Mary S. Korslund for a special permit and/or variance to raze and replace a single family dwelling at 2 Green Street, Rockport.
 - a) Opened 7:30 P.M. Closed 7:55 P.M.
 - b) Members of the Board sitting are Peter Bergholtz (Presiding), Charles W. Christopher, Joyce Fossa, Tacy San Antonio and Frederick Frithsen.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Jack Campbell, architect, of 4 Bayridge Lane, Rockport, MA 01966 represented the petitioners.
 - i) The present structure is non-conforming and the new structure will take advantage of existing setbacks. The front and side setbacks are non-conforming.
 - ii) 1.D.3. allows a rebuild as long as it is set in the footprint of the existing structure. The plan will reduce the non-conformity by about 40%.
 - iii) The height of the grade is about 40.5 feet existing height is about 29 feet.
 - iv) On the plan the red dots on the gravel are a retaining wall about 5 feet in height.
 - v) The deck above is permeable.
 - vi) Will be a shingle style house.
 - vii) Building coverage is about 29%.
 - e) Audience
 - i) Madge Slavin of 4 Green Street, Rockport stated:
 - (1) That she will loose her view and privacy.
 - (2) The new structure will block the sun and wind.
 - (3) The quality of life will be lessened and detrimental.
 - (4) Submitted a letter to Board stating her opposition to this request.
 - ii) Julia Khorana, 1 Green Street, Rockport has lived here for 30 years.
 - (1) The present structure is a small non-conforming structure.
 - (2) The new structure will be twice the size and out of context with the rest of the neighborhood.
 - (3) There will be a loss of view and a negative impact on the abutting properties.
 - (4) Submitted statement to the Board.
 - iii) Ruth Kilduff, 6R Breakwater Avenue, spoke in support of the petitioners.
 - iv) Letter submitted by Liggett 6 Green Street, objecting to petitioners request.
 - f) Jack Campbell stated that the present structure is not in good condition and the owners need a permanent residence.
- 3) Hearing of Bruce and Robin Feldman for a variance and/or special permit to raze commercial florist buildings and replace them with a commercial office building at 124 Main Street, Rockport.
 - a) Opened 7:56 P.M. Closed 8:15 P.M.

- b) Members of the Board sitting are Peter Bergholtz (presiding), John N. Rees, Alan Battistelli, Lars-Erik Wiberg and Joyce Fossa.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Attorney Wilhelmina Sheedy, 76 Main Street, Rockport represented the petitioners.
 - i) Feldmans are owners of an insurance company and plan to remove the greenhouses from the property and build a 4-unit office building with 26 parking spaces.
 - ii) The Rockport Planning Board has accepted the plan for 29,000 square feet.
 - iii) It will meet dimensional requirements.
 - iv) The Rockport Board of Selectman has granted an easement allowing access from Bluegate Lane submitted copies of the easement and access.
 - v) It will look like a 1-2 story home with shingles, transom windows and about 27 feet in height.
 - vi) There will be about 6 employees at the insurance company.
 - vii) The parking area will have cut off lights and the trash and recycle receptacles will be in the rear.
 - viii) 39 Parking spaces are required but are asking for a variance for 26 spaces, as that should be sufficient.
 - ix) The hardship is the configuration of the lot and more parking would make it more congested and less green space.
 - e) Bruce Feldman, 14 Whale Cove Road, Rockport stated that the plan could have been designed with more parking but they felt it would be better to have more green space there will be a 6 feet of green belt on Main Street and Blue Gate Lane where only 4.5 feet are required.
 - f) John N. Rees asked about how long visitors might stay and how often there would be visitors to the offices. Owner felt that the 26 spaces would be sufficient to handle the length and frequency of visiting customers to the offices.
 - g) Alan Battistelli stated that a Special Permit can grant parking and green space and it doesn't require a hardship.
 - h) No audience participation.
- 4) Continuance: Petition of Three Keys Group, LLC at the Cape Hedge Inn at 151 South Street, Rockport. Acknowledgement of Open Meeting complaint and response.
- a) Members of the Board sitting are Alan Battistelli (Presiding), Tacy San Antonio, John N. Rees, Lars-Erik Wiberg and Frederick Frithsen.
 - b) Opened 8:16 P.M. Closed 9:17 P.M.
 - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
 - d) Attorney Robert Visnick, 11 School Street, Rockport represented the petitioner.
 - i) A continuance from the last meeting in order for the Board to review a letter from town attorneys Koppelman & Paige and to make a site visit.
 - ii) Upon a request by an abutter the petitioner made a pledge to beautify the exterior and have an on site property manager.
 - iii) Use as long-term residences will be a less intense use as there will be less turnover, traffic and trash. There are fewer problems than with an inn or hotel.
 - iv) If spectrum of activity is definition of use this is not a higher use.
 - v) Alan Battistelli asked if 10% of residence will be low income and Attorney Visnick replied that it is only necessary on new constructions not on existing ones. This can be addressed in a more formal way if required by the Board.

- vi) John N. Rees stated that since the ownership by the Beatons in 2008 the property has evolved into long-term residence.
- vii) Alan Battistelli stated that our definition of an inn is for long or short-term use.
- viii) When asked about the plans to beautify the property, Andrew Stevens of Winterhaven Road, Gloucester replied that they are planning:
 - (1) Repaint to make it look more like a houses.
 - (2) Add more landscaping so the area is more private from the rest of the neighborhood and soften the buildings.
- ix) Alan Battistelli about the units and the reply was that there are 23 units planned. The pool is locked and there are no immediate plans for its use. It may be used as storage space.
- e) Audience
 - i) John Thompson 4 Rutherford Way speaking for the South End Association
 - (1) Gave a history of the Inn.
 - (2) It is a single residential area.
 - (3) Frontage is 675 feet, 2.4 acres.
 - (4) This would be a much denser use.
 - (5) Not in character with the neighborhood.
 - ii) Steve Clark Sheehan Terrace, Rockport works with Mr. Stevens and is in favor of granting this petition.
 - iii) Ronald Pierce 151 South Street, Rockport has been long been a resident of the town. Long-term illness of his wife has left him with the need for this type of home. It is clean and not detrimental to the neighborhood.
 - iv) William Bloomberg, 151 South Street, Rockport formerly lived in family home in Rockport. Sold his home and has lived here for about ten weeks. It is a very quiet.
 - v) Kelley Hill 3 Tregony Bow, Rockport said the property is changing hands and the Board must be careful of this change. It must be within the limits of the law.
 - vi) Mark Curley 8 Old Penzance Road, Rockport said that the Boards job is to interpret the Bylaws. The job is to follow the law and statutes. A tenant at will is substantially detrimental to the neighborhood. Tennants have a lot more rights than a guest has. You must follow the law and not feel sorry for the people who live there. There is an increase in density of usage.
 - vii) Susan Crown 67 Eden Road, Rockport this is a long term change and if the building becomes an apartment building what happens down the line with subsequent owners etc. This has a long term effect on the neighborhood and property values.
 - viii) Gail Zeman 3 Penzance Road, Rockport wanted to know what abutter was contacted about beautification of Inn as she is the only abutter and she was never contacted.
 - ix) Andrew Stevens the prospective buyer said that he was contacted by John Doue 73 Eden Road about increased screening. There is a possibility of 5 house lots on the property but this would not be practical because it is all ledge. An inn is allowed to work all year round.
 - x) Hank Betts 13 Penzance Road wants in writing what they will do to improve the exterior of property.
 - xi) Andrew Stevens answered that they need to work with the architect and neighbors to come up with what they will do.

- xii) Michael Beaton 7 Gap Head Road, Rockport said that there is already a lot of buffer there.
 - xiii) Ian Crown 67 Eden Road, Rockport
 - (1) Felt the Board should focus on the change of use. Building permits were granted for the kitchens.
 - (2) The town enabled this with the issuance of these permits.
 - (3) Both permits were granted as not a change in use.
 - (4) If this remains an inn nothing else is necessary.
 - xiv) Robert Visnick said.
 - (1) Mr. Stevens feels that the definition of an inn allows this.
 - (2) The use is not changing so it is not more detrimental to the neighborhood.
 - (3) Long-term guests have less impingement on neighborhood.
 - f) Alan Battistelli stated that the Board will look at the definition of an inn and it will discuss it as a change of use. They will then decide whether to grant or deny the petition.
- 5) Approval of Minutes
- a) October 29, 2013
 - i) Alan Battistelli moved to approve the minutes as presented.
 - ii) Lars-Erik Wiberg seconded.
 - iii) It passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen, Joyce Fossa and Charles W. Christopher voting.
 - b) November 14, 2013
 - i) Alan Battistelli moved to approve the minutes as presented.
 - ii) Lars-Erik Wiberg seconded.
 - iii) It passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen, Joyce Fossa and Charles W. Christopher voting.
- 6) Old Business:
- a) Rules of Procedure update status
 - i) John N. Rees and Charles W. Christopher said that they should be ready by the second week in January.
 - ii) Peter Bergholtz asked that the cost of purchasing tablets be added to the January Board meeting's agenda.
 - b) A Workshop will be scheduled for the second week of January.
- 7) New Business
- a) Conflict of Interest Training forms must be completed and turned in by December 20, 2013.
 - b) All the members signed the Bill Authorization form.
 - c) The Rockport Board of Selectmen will host a holiday celebration at the Community House from 4 - 6 P.M. on December 12, 2013.
- 8) Discussion of Petitions
- a) Henry J. and Mary S. Korslund
 - i) Joyce Fossa said that the house is in terrible shape.
 - ii) Tacy San Antonio feels that the new house will block the house behind it a little but the new house is a nice building.
 - iii) Peter Bergholtz stated that the new house would be less non-conforming.
 - iv) Frederick Frithsen felt it would be an improvement.

- v) Charles W. Christopher is concerned with its closeness to its rear neighbor. 10 feet are required and it meets this.
- vi) Joyce Fossa made a motion to raze the building and allow a new building to be constructed according to the plans presented. Tacy San Antonio seconded the motion and it passed unanimously with Peter Bergholtz, Tacy D. San Antonio, Frederick Frithsen, Joyce Fossa and Charles W. Christopher voting.
- b) Bruce and Robin Feldman
 - i) John N. Rees commented that the Granite Savings Bank meets all the parking requirements and it is a lot of unused asphalt. It is better to have the green space and the plans are well thought out.
 - ii) Special permits are needed for change of use and the require parking.
 - iii) Alan Battistelli moved to approve the issuance of the two Special Permits.
 - iv) John N. Rees seconded and it passed unanimously with Peter Bergholtz, Alan Battistelli, John N. Rees, Lars-Erik Wiberg and Joyce Fossa voting.
- c) Three Keys Group, LLC at the Cape Hedge Inn
 - i) John N. Rees related that the definition of an inn is broad and this definition is what we have to work with.
 - ii) Alan Battistelli suggested that we might want to add to the definition and submit it to the Planning Board for consideration.
 - iii) Tacy San Antonio stated that the definition of an inn was worded this way so they could stay in the winter. We are in Special Permit territory.
 - iv) Lars-Erik Wiberg believes that there is a problem having a multi-family unit rather than an inn in residential neighborhood. It is detrimental to the neighborhood.
 - v) Frederick Frithsen feels this is detrimental since we would be creating 23 family units in a single building in a single-family residential area.
 - vi) John N. Rees felt it would be detrimental if it was a more intensive use, uglier or the quality of the residents was poorer but none of these apply. What is there is legal.
 - vii) Alan Battistelli can find no illegality. It has been quieter since the inn went to long-term residents.
 - viii) Tacy San Antonio stated this is non-conforming in a single residential area. It can be an inn or nothing.
 - ix) Alan Battistelli tried to list ways that it might be more detrimental.
 - (1) Hardship on town as winter residents would have more impact on schools, police, etc.
 - (2) All units all year round will be occupied.
 - (3) Long-term tenants have more extensive impact.
 - x) Lars-Erik Wiberg said that multiple family dwellings do not belong in a single residential area. Zoning can't accommodate that.
 - xi) Tacy San Antonio made a motion to deny a Special Permit for a change of use to a multi-unit dwelling.
 - xii) Frederick Frithsen seconded.
 - xiii) Frederick Frithsen, Tacy San Antonio and Lars-Erik Wiberg voted in favor of the motion and Alan Battistelli and John N. Rees voted against.
 - xiv) Frederick Frithsen will write the denial with Tacy San Antonio vetting. Alan Battistelli will write the dissenting opinion.
- 9) Next Possible Meeting January 28, 2014
- 10) Motion to adjourn made by John N. Rees and seconded by Frederick Frithsen.
Passed unanimously with Tacy D. San Antonio, Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen and Joyce Fossa voting. Adjournment at 10:16 P.M.